

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

FILED

APR 10 2025

CLERK, U.S. DISTRICT COURT
TEXAS EASTERN

JENNIFER RYAN,

Plaintiff,

v.

PAYPAL INC.,

Defendant.

CIVIL ACTION NO.: 4:22-cv-559

JURY TRIAL DEMANDED

**PLAINTIFFS' EMERGENCY MOTION TO CLARIFY
& TO ENTER DEFAULT AGAINST PAYPAL**

TO THE HONORABLE JUDGE BILL DAVIS:

Plaintiff Jennifer Ryan, pro se, files this Emergency Motion to Clarify the April 9, 2025 Order (Dkt. #69) and requests immediate entry of default against Defendant PayPal Inc. under Fed. R. Civ. P. 55(a), asserting the Court's *sua sponte* negation of her Motion for Default Judgment (Dkt. #60)—without a required Rule 55(c) motion—violates due process and procedural rules, prejudicing her urgent \$85M claim.

I. BACKGROUND

1. On February 24, 2025, Plaintiff filed her Second Amended Complaint (Dkt. #49). Defendant failed to respond by March 17, 2025—36 days of silence.
2. On March 31, 2025, Plaintiff filed a Motion for Default Judgment (Dkt. #60), supported by an affidavit (Dkt. #64, April 3), based on Defendant's failure to plead or defend under Rule 55(a).
3. Defendant filed a Motion to Strike (Dkt. #66) on April 4—post-default—late—not a responsive pleading (*Augustus v. Bd. of Pub. Instruction*, 306 F.2d 862 (5th Cir. 1962)) and without leave.
4. On April 9, 2025, the Court ordered (Dkt. #69) that “failure to respond will not be deemed... default,” pausing all motions (Dkt. #48–#68), including Dkt. #60, without a Rule 55(c) motion from Defendant.

5. Plaintiff asserts this *sua sponte* action negates her procedural right to default entry under Rule 55(a), absent Defendant's motion to set aside, prejudicing her \$85M claim (Dkt. #49).

II. REQUEST FOR CLARIFICATION

Plaintiff requests clarification:

1. Does Dkt. #69 vacate or delay the clerk's entry of default under Rule 55(a) for Dkt. #60?
2. If so, under what authority—without Defendant's Rule 55(c) motion—and on what findings of fact and law, given no due process hearing or argument?

III. MOTION TO ENTER DEFAULT

Plaintiff moves for default entry under Rule 55(a):

1. Defendant failed to respond to Dkt. #49 within 21 days (Rule 12(a)(1)(A)(i))—36 days elapsed by April 4th.
2. No Rule 55(c) motion—"good cause"—filed (*Lacy v. Sitel Corp.*, 227 F.3d 290 (5th Cir. 2000)).
3. Rule 55(a) mandates—"clerk must enter"—shown by affidavit (Dkt. #64) and docket—Defendant's silence admits 14 claims (Dkt. #49, ¶¶ 13-30; Rule 8(b)(6)), including constitutional violations (*Mitsubishi Motors Corp. v. Soler Chrysler-Plymouth, Inc.*, 473 U.S. 614 (1985)).
4. Dkt. #69's *sua sponte* negation—without Defendant's motion—violates due process (*U.S. v. Sineneng-Smith*, 140 S. Ct. 1575 (2020)) and Rule 55—prejudicing Plaintiff's \$85M claim (Dkt. #63).
5. Defendant's cherry-picking (Dkt. #66)—33 months litigating (Dkt. #1)—waives arbitration (*Morgan v. Sundance*, 142 S. Ct. 1708 (2022)).

IV. CONCLUSION

Plaintiff requests:

1. Clarification of Dkt. #69's effect on Rule 55(a) default entry for Dkt. #60.
2. Entry of default against PayPal under Rule 55(a), as no Rule 55(c) motion justifies delay.
3. Further relief as just.

Respectfully submitted,


Jennifer L. Ryan
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Pro Se Plaintiff

CERTIFICATE OF SERVICE

I certify that on April 10, 2025, a true and correct copy of this Motion was served on all parties of record via CM/ECF and/or U.S. Mail.

/ s / Jennifer L. Ryan